

AMENDED IN ASSEMBLY JUNE 22, 2009

AMENDED IN SENATE JUNE 1, 2009

AMENDED IN SENATE APRIL 23, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 427

Introduced by Senator Negrete McLeod

February 26, 2009

An act to amend Sections 9875 and 9889.20 of, to amend, repeal, and add Sections 9884.8 and 9884.9 of, and to add ~~Sections 9884.75 and Section 9884.76~~ to, the Business and Professions Code, relating to automotive repair.

LEGISLATIVE COUNSEL'S DIGEST

SB 427, as amended, Negrete McLeod. Automotive repair: crash parts.

Existing law, the Automotive Repair Act, establishes the Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. The act provides for the registration and regulation of automotive repair dealers and authorizes the director to adopt regulations to implement its provisions. The act requires all work done by an automotive repair dealer to be recorded on an invoice that describes all service work done and parts supplied. The act requires the invoice to include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. The act also requires this information to be provided to a customer in an itemized written estimate when an automotive repair dealer is doing auto body or collision repairs. Existing law requires the automotive repair dealer to obtain authorization

from the customer before performing work and imposing charges. A violation of the act is a crime.

This bill would define “crash part” for purposes of the act. ~~The bill would, commencing January 1, 2011, require an automotive repair dealer to provide a customer copies of invoices for any airbags installed as part of an inflatable restraint system.~~

The bill would require the first page of the itemized written estimate to include a notice, as specified, stating that installing parts other than those described on the estimate ~~without prior approval from the customer~~ is unlawful and informing the customer of the toll-free telephone number of the bureau *for a free car repair inspection*. The bill would additionally require an automotive repair dealer to provide on the first page of the final invoice, a statement that installing parts other than those described on the estimate ~~without prior approval from the customer~~ is unlawful and informing the customer of the toll-free telephone number of the bureau *for a free car repair inspection*. The bill would make these provisions operative on January 1, 2011.

The bill would specify that an automotive repair dealer who prepares an estimate, including replacement of a specified deployed airbag, and who fails to repair and fully restore the airbag, as specified, is guilty of a misdemeanor punishable by a fine, imprisonment, or both.

Because a violation of the bill’s provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9875 of the Business and Professions
- 2 Code is amended to read:
- 3 9875. As used in this chapter, the following definitions shall
- 4 apply:
- 5 (a) “Insurer” includes an insurance company and any person
- 6 authorized to represent the insurer with respect to a claim.

1 (b) “Crash part” means any of the nonmechanical sheet metal
2 or plastic parts which generally constitute the exterior of a motor
3 vehicle, including inner and outer panels and exterior lighting; and
4 shall also include the airbag in a motor vehicle’s inflatable restraint
5 system.

6 (c) “Aftermarket crash part” means a replacement for any crash
7 part.

8 (d) “Nonoriginal equipment manufacturer aftermarket crash
9 part” means aftermarket crash parts not made for or by the
10 manufacturer of the motor vehicle.

11 ~~SEC. 2. Section 9884.75 is added to the Business and~~
12 ~~Professions Code, to read:~~

13 ~~9884.75. (a) An automotive repair dealer shall provide a~~
14 ~~customer copies of invoices for any airbags installed as part of an~~
15 ~~inflatable restraint system. The automotive repair dealer may~~
16 ~~remove from these invoices the price paid by the automotive repair~~
17 ~~dealer for the airbags.~~

18 ~~(b) This section shall become operative on January 1, 2011.~~

19 ~~SEC. 3.~~

20 *SEC. 2.* Section 9884.76 is added to the Business and
21 Professions Code, to read:

22 9884.76. Notwithstanding Section 9889.20, an automotive
23 repair dealer who prepares a written estimate for repairs pursuant
24 to Section 9884.9 that includes replacement of a deployed airbag
25 that is part of an inflatable restraint system and who fails to repair
26 and fully restore the airbag to original operating condition is guilty
27 of a misdemeanor punishable by a fine of five thousand dollars
28 (\$5,000) or by imprisonment in the county jail for one year or by
29 both that fine and imprisonment.

30 ~~SEC. 4.~~

31 *SEC. 3.* Section 9884.8 of the Business and Professions Code
32 is amended to read:

33 9884.8. (a) All work done by an automotive repair dealer,
34 including all warranty work, shall be recorded on an invoice and
35 shall describe all service work done and parts supplied. Service
36 work and parts shall be listed separately on the invoice, which
37 shall also state separately the subtotal prices for service work and
38 for parts, not including sales tax, and shall state separately the sales
39 tax, if any, applicable to each. If any used, rebuilt, or reconditioned
40 parts are supplied, the invoice shall clearly state that fact. If a part

1 of a component system is composed of new and used, rebuilt or
2 reconditioned parts, that invoice shall clearly state that fact. The
3 invoice shall include a statement indicating whether any crash
4 parts are original equipment manufacturer crash parts or
5 nonoriginal equipment manufacturer aftermarket crash parts. One
6 copy of the invoice shall be given to the customer and one copy
7 shall be retained by the automotive repair dealer.

8 (b) This section shall remain in effect only until January 1, 2011,
9 and as of that date is repealed, unless a later enacted statute, that
10 is enacted before January 1, 2011, deletes or extends that date.

11 ~~SEC. 5.~~

12 *SEC. 4.* Section 9884.8 is added to the Business and Professions
13 Code, to read:

14 9884.8. (a) All work done by an automotive repair dealer,
15 including all warranty work, shall be recorded on a final repair
16 invoice and shall describe all service work done and parts installed.
17 Service work and parts shall be listed separately on the repair
18 invoice, which shall also state separately the subtotal prices for
19 service work and for parts, not including sales tax, and shall state
20 separately the sales tax, if any, applicable to each. If any used,
21 rebuilt, or reconditioned parts are installed, the invoice shall clearly
22 state that fact. If a part of a component system is composed of new
23 and used, rebuilt, or reconditioned parts, that invoice shall clearly
24 state that fact. The invoice shall include a statement indicating
25 whether any crash parts are original equipment manufacturer crash
26 parts or nonoriginal equipment manufacturer aftermarket crash
27 parts. ~~If an airbag was installed, the airbag invoice required in~~
28 ~~Section 9884.75 shall be attached to the final invoice required~~
29 ~~under this subdivision. One copy of the final repair invoice along~~
30 ~~with any airbag invoices, if applicable, shall be given to the parts.~~
31 *One copy of the final repair invoice shall be given to the customer*
32 *and one copy shall be retained by the automotive repair dealer.*

33 (b) The first page of the final repair invoice shall contain the
34 following statement in 12-point boldface type or larger enclosed
35 in a box:

36
37 ~~“INSTALLING A PART, OTHER THAN A PART~~
38 ~~DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT~~
39 ~~PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL.~~
40 ~~IF YOU ARE CONCERNED ABOUT THE REPAIR OF YOUR~~

~~VEHICLE BY AN AUTOMOTIVE REPAIR DEALER, CALL
THE BUREAU OF AUTOMOTIVE REPAIR IN THE
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
TOLL FREE AT (800) 952-5210.”~~

~~“INSTALLING A PART, OTHER THAN A PART DESCRIBED
ON THE WRITTEN ESTIMATE, IS UNLAWFUL. IF YOU WOULD
LIKE A FREE CAR REPAIR INSPECTION, PLEASE CALL THE
BUREAU OF AUTOMOTIVE REPAIR AT (800) 952-5210.”~~

(c) This section shall become operative on January 1, 2011.

~~SEC. 6.~~

SEC. 5. Section 9884.9 of the Business and Professions Code is amended to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs, and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent, if there is an oral consent of the customer to additional repairs, in the following language:

1 “I acknowledge notice and oral approval of an increase in the
2 original estimated price.

3 _____
4 (signature or initials)”
5

6 Nothing in this section shall be construed as requiring an
7 automotive repair dealer to give a written estimated price if the
8 dealer does not agree to perform the requested repair.

9 (b) The automotive repair dealer shall include with the written
10 estimated price a statement of any automotive repair service that,
11 if required to be done, will be done by someone other than the
12 dealer or his or her employees. No service shall be done by other
13 than the dealer or his or her employees without the consent of the
14 customer, unless the customer cannot reasonably be notified. The
15 dealer shall be responsible, in any case, for any service in the same
16 manner as if the dealer or his or her employees had done the
17 service.

18 (c) In addition to subdivisions (a) and (b), an automotive repair
19 dealer, when doing auto body or collision repairs, shall provide
20 an itemized written estimate for all parts and labor to the customer.
21 The estimate shall describe labor and parts separately and shall
22 identify each part, indicating whether the replacement part is new,
23 used, rebuilt, or reconditioned. Each crash part shall be identified
24 on the written estimate and the written estimate shall indicate
25 whether the crash part is an original equipment manufacturer crash
26 part or a nonoriginal equipment manufacturer aftermarket crash
27 part.

28 (d) A customer may designate another person to authorize work
29 or parts supplied in excess of the estimated price, if the designation
30 is made in writing at the time that the initial authorization to
31 proceed is signed by the customer. The bureau may specify in
32 regulation the form and content of a designation and the procedures
33 to be followed by the automotive repair dealer in recording the
34 designation. For the purposes of this section, a designee shall not
35 be the automotive repair dealer providing repair services or an
36 insurer involved in a claim that includes the motor vehicle being
37 repaired, or an employee or agent or a person acting on behalf of
38 the dealer or insurer.

(e) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

~~SEC. 7.~~

SEC. 6. Section 9884.9 is added to the Business and Professions Code, to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts installed in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are installed. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs, and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the repair invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent, if there is an oral consent of the customer to additional repairs, in the following language:

"I acknowledge notice and oral approval of an increase in the original estimated price.

(signature or initials)"

1 Nothing in this section shall be construed as requiring an
2 automotive repair dealer to give a written estimated price if the
3 dealer does not agree to perform the requested repair.

4 (b) The automotive repair dealer shall include with the written
5 estimated price a statement of any automotive repair service that,
6 if required to be done, will be done by someone other than the
7 dealer or his or her employees. No service shall be done by anyone
8 other than the dealer or his or her employees without the consent
9 of the customer, unless the customer cannot reasonably be notified.
10 The dealer shall be responsible, in any case, for any service in the
11 same manner as if the dealer or his or her employees had done the
12 service.

13 (c) In addition to subdivisions (a) and (b), an automotive repair
14 dealer, when doing auto body or collision repairs, shall provide
15 an itemized written estimate for all parts and labor to the customer.
16 The written estimate shall describe labor and parts separately and
17 shall identify each part, indicating whether the replacement part
18 is new, used, rebuilt, or reconditioned. Each crash part shall be
19 identified on the written estimate and the written estimate shall
20 indicate whether the crash part is an original equipment
21 manufacturer crash part or a nonoriginal equipment manufacturer
22 aftermarket crash part. In all instances, the first page of the written
23 estimate shall contain a notice with the following information in
24 12-point boldface type or larger enclosed in a box:

25
26 ~~“INSTALLING A PART, OTHER THAN A PART~~
27 ~~DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT~~
28 ~~PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL.~~

29 —
30 ~~IF YOU ARE CONCERNED ABOUT THE REPAIR OF YOUR~~
31 ~~VEHICLE BY AN AUTOMOTIVE REPAIR DEALER, CALL~~
32 ~~THE BUREAU OF AUTOMOTIVE REPAIR IN THE~~
33 ~~CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS~~
34 ~~TOLL FREE AT (800) 952-5210.”~~

35 *“INSTALLING A PART, OTHER THAN A PART DESCRIBED*
36 *ON THE WRITTEN ESTIMATE, IS UNLAWFUL. IF YOU WOULD*
37 *LIKE A FREE CAR REPAIR INSPECTION, PLEASE CALL THE*
38 *BUREAU OF AUTOMOTIVE REPAIR AT (800) 952-5210.”*
39

1 (d) A customer may designate another person to authorize work
2 or parts supplied in excess of the estimated price, if the designation
3 is made in writing at the time that the initial authorization to
4 proceed is signed by the customer. The bureau may specify in
5 regulation the form and content of a designation and the procedures
6 to be followed by the automotive repair dealer in recording the
7 designation. For the purposes of this section, a designee shall not
8 be the automotive repair dealer providing repair services or an
9 insurer involved in a claim that includes the motor vehicle being
10 repaired, or an employee or agent or a person acting on behalf of
11 the dealer or insurer.

12 (e) This section shall become operative on January 1, 2011.

13 ~~SEC. 8.~~

14 *SEC. 7.* Section 9889.20 of the Business and Professions Code
15 is amended to read:

16 9889.20. Except as otherwise provided in Sections 9884.76
17 and 9889.21, any person who fails to comply in any respect with
18 the provisions of this chapter is guilty of a misdemeanor and
19 punishable by a fine not exceeding one thousand dollars (\$1,000),
20 or by imprisonment not exceeding six months, or by both such
21 fine and imprisonment.

22 ~~SEC. 9.~~

23 *SEC. 8.* No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.